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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/743,960	12/22/2003	Anthony J. Lamela	15211	9369

37414 7590 01/21/2005

CNH AMERICA LLC
INTELLECTUAL PROPERTY LAW DEPARTMENT
PO BOX 1895, MS 641
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EXAMINER

YEAGLEY, DANIEL S

ART UNIT	PAPER NUMBER
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3611

DATE MAILED: 01/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

10/743,960

Applicant(s)

LAMELA ET AL.

Examiner

Daniel Yeagley

Art Unit

3611

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 11 January 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the _____ application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:


Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1-8.

Claim(s) withdrawn from consideration: _____

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s).
10. ☐ Other: _____


LESLEY D. MORRIS
SUPERVISORY PATENT EXAMINER
TECHNICAL FIELD: 3600

Continuation of 5. does NOT place the application in condition for allowance because: although applicant's arguments have been fully considered, they are not persuasive. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). Mather '757 clearly discloses a four wheel, motor driven, steerable vehicle; in this case being a type of skid steer vehicle, which comprises the claimed features of the drive means having a chassis consisting of a chain tank having a left side chain driven by a left drive means and right side chain driven by a right drive means which clearly remain in the same orientation relative to the left and right motors and left and right drive members as broadly claimed and further include arms for the wheels that are coupled to the chassis but failed to show these arms being pivotally coupled to the chassis as claimed. However Caswell '656 clearly discloses this known feature of applying independent pivotal four wheel suspensions to a four wheel, motor driven, steerable vehicle which incorporates pivotal arms coupled to the chassis of the vehicle as broadly claimed in order to conveniently independently suspend each wheel of the vehicle to the chassis to provide a dampening means to a vehicle as is commonly utilized on all types of vehicle for better comfort, ride stability and to reduce stress factors on the vehicle components for preventive measures and enhanced ride as is well known and old in the vehicle art and further would have been obvious to one of ordinary skill in the art without undue experimentation to have combined these known features of a drive means in combination with a known suspension means which are regularly combined features within the vehicle art and furthermore the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). Furthermore; in this case; Caswell pivotal suspension arms are readable as being applied in combination to a vehicle which also has a drive means that inherently remains in the same orientation relative to the motor and drive members of the vehicle as broadly claimed and therefore the examiner still considers the combination obvious and readable on the instant claims as being obvious to one of ordinary skill in the art to have combined these known features .